IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

LETTERS PATENT APPEAL No 218 of 2003

in

SPECIAL CIVIL APPLICATIONNo 11310 of 2001

with

CIVIL APPLICATION No 1471 of 2003

For Approval and Signature:

Hon'ble ACTING CHIEF JUSTICE MR.JN BHATT
and
Hon'ble MR.JUSTICE K.A.PUJ

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

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GUJARAT STATE ROAD TRANSPORT CORPORATION

Versus

FN VORA

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Appearance:

MR KS JHAVERI for Appellant

MR BA VAISHNAV for Respondent

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CORAM : ACTING CHIEF JUSTICE MR.JN BHATT
and
MR.JUSTICE K.A.PUJ

Date of decision: 21/04/2003

ORAL JUDGEMENT

(Per : ACTING CHIEF JUSTICE MR.JN BHATT)

Admit, service of which is waived by learned advocate Mr.Vaishnav for the respondent. Upon joint request and considering the facts and circumstances of the case, the matter was taken up for final hearing and we were addressed by both the learned advocates appearing for the parties.

The appellate Authority of the appellant Corporation, passed order dated 14.3.97 quashing the dismissal order of the respondent and ordered reinstatement of the respondent, who was working as Helper with a penalty of treating the period between 23.4.96 to 14.3.97 as leave without pay and, also, penalty of stoppage of three annual increments with cumulative effect, which on being questioned in a reference being reference (IT) No.86/98 came to be quashed by the Industrial Tribunal, Nadiad, while allowing the reference by the award dated 11.12.2000. The order of the Industrial Tribunal on being questioned before the learned single Judge in Special Civil Application No.11310 of 2001 came to be confirmed by rejecting the writ petition on 10.4.2002. Hence this Letters Patent Appeal under clause 15 of the Letters Patent.

After taking into account the facts and circumstances and the relevant proposition of law, we are of the opinion that since unauthorized leave is established, at least stoppage of one increment with future effect will meet the ends of justice, in so far as the proportionality of penalty is concerned and the period during which, he has not worked, he would not be entitled to any backwages. In our opinion, therefore, the order of reinstatement with continuity of service is required to be maintained while imposing penalty of stoppage of one increment with future effect and granting no backwages for the period between 23.4.96 to 14.3.97.

In the result, the impugned award of the Tribunal shall stand modified to the extent that the order of reinstatement of the respondent with continuity of service is maintained as if there is no break in service for all the purpose, while imposing penalty of stoppage

of one increment with future effect and the respondent would not be entitled to any backwages for the period between 23.4.96 to 14.3.97. Accordingly, the Letters Patent Appeal shall stand partly allowed with no order as to costs.

In view of the order in the main LPA, the Civil Application also does not assume any survival value and it shall stand disposed of accordingly.

(J.N.Bhatt, Acting CJ)

(K.A.Puj, J.)
(vjn)